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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
Against:

Case No. 2011-110

12 **VERNETTA LA SHAWN JONES**
13 **A.K.A. NETTA LASHAW JONES**
14 **1041 N. 4th Street, #B**
San Jose, CA 95112

FIRST AMENDED ACCUSATION

15 **Registered Nurse License No. RN 712046**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended Accusation
21 solely in her official capacity as the Interim Executive Officer of the Board of Registered
22 Nursing, Department of Consumer Affairs.

23 2. On or about September 7, 2007, the Board of Registered Nursing issued Registered
24 Nurse License Number RN 712046 to Vernetta La Shawn Jones, also known as Netta Lashaw
25 Jones (Respondent). The Registered Nurse License was in full force and effect at all times
26 relevant to the charges brought in this first Amended Accusation and will expire on July 31, 2011,
27 unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY/REGULATION PROVISIONS

7. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

8. Section 2762 of the Code states, in pertinent part, that "[i]n addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

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"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

9. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

10. California Code of Regulations, title 16, section 1444 states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

"(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

"(b) Failure to comply with any mandatory reporting requirements.

"(c) Theft, dishonesty, fraud, or deceit.

"(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 FIRST CAUSE FOR DISCIPLINARY ACTION

4 (Unprofessional Conduct)
(Bus. & Prof. Code §2761(a))

5 12. Respondent has subjected her Registered Nurse License to disciplinary action for
6 unprofessional conduct under Code section 2761(a). The circumstances are as follows:

7 a. On October 19, 2009, in Felton, California, Respondent, while under the influence of
8 alcohol, engaged in a physical altercation with Sharonda Johnson. A Merced County Deputy
9 Sheriff, dispatched to the scene regarding a physical altercation, witnessed Johnson with a
10 handful of Respondent's hair and saw Respondent swing at Johnson with her closed right fist,
11 hitting Johnson on the left portion of her torso. The deputy announced that he was with the
12 Sheriff's Department and pulled Johnson away from Respondent. However, while being pulled
13 away, Johnson struck the deputy. The deputy placed Johnson under arrest and went to speak with
14 Respondent on the front porch of a residence. When asked what her name was, Respondent
15 responded, "Fuck you, I'm going in the house." The deputy later entered the house, and asked
16 Respondent to talk to him about the incident. Instead, Respondent told him, "Fuck you, I'm not
17 gonna talk to the police." Respondent also told the deputy that she did not want to go outside to
18 talk to him because she knew that she would be arrested for being drunk in public. Respondent
19 stated that she was drunk and that it was "just a family argument." In response to a question from
20 the deputy about providing her personal information, Respondent only gave him her name and
21 refused to give him any further information. After arresting Respondent, the deputy observed a
22 bump, approximately the size of a golf ball on the left portion of her forehead. While Respondent
23 was at the jail, she became combative and refused to allow the deputy to take photographs of her
24 injuries. The deputy restrained Respondent and a sergeant with the Merced County Sheriff's
25 Department took photographs of her injuries.

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1 SECOND CAUSE FOR DISCIPLINARY ACTION

2 (Substantially Related Conviction)
3 (Bus. & Prof. Code §§ 490 and 2761(f))

4 13. Respondent has subjected her Registered Nurse License to disciplinary action under
5 Code sections 490 and 2761(f) and California Code of Regulations, title 16, section 1444 in that
6 she was convicted of a crime substantially related to the qualifications, functions, or duties of a
7 registered nurse. Specifically, on or about December 21, 2009, in the Superior Court of
8 California, County of Merced, Case No. CRL001981B, entitled *The People of the State of*
9 *California v. Netta Lashaw Jones*, Respondent was convicted by her plea of no contest of
10 violating Penal Code section 148(a) (obstruct/resist public officer), a misdemeanor. Respondent
11 was placed on probation for 12 months upon terms and conditions, which included, but were not
12 limited to, performing 40 hours of community and attending two Alcoholic's Anonymous classes
13 per week for six months.

14 THIRD CAUSE FOR DISCIPLINARY ACTION

15 (Unprofessional Conduct)
16 (Bus. & Prof. Code §2761(a))

17 14. Respondent has subjected her Registered Nurse License to disciplinary action for
18 unprofessional conduct under Code section 2761(a). The circumstances are as follows:

19 a. On August 6, 2009, in San Jose, California, a California Highway Patrol (CHP)
20 pulled Respondent over for driving erratically. The officer immediately smelled the odor of an
21 alcoholic beverage emitting from inside the vehicle. The officer had Respondent exit her vehicle.
22 While Respondent was walking to the patrol vehicle, the CHP officer observed her to be unsteady
23 on her feet, and smelled alcohol on her breath. The CHP officer conducted a horizontal gaze
24 nystagmus test, which is a field sobriety test, on Respondent. Respondent failed to perform the
25 test as instructed. The CHP officer then called a second CHP unit to continue the investigation.

26 b. Two CHP officers responded to the call to conduct a DUI evaluation of Respondent.
27 The CHP officer detected the odor of an alcoholic beverage emitting from within Respondent's
28 vehicle. The CHP officer directed Respondent to exit her vehicle and walk toward his CHP
 vehicle. Respondent complied. As Respondent walked toward the vehicle, the officer observed
 that Respondent was unsteady on her feet and used her vehicle to maintain her balance. The

1 officer smelled the strong odor of alcohol on her breath and her eyes were red and watery. The
2 CHP officer asked Respondent a series of pre-FST (field sobriety test) questions and had her
3 perform a series of pre-demonstrated FST's. Respondent performed the tests with impaired
4 coordination. Based upon Respondent's poor performance on the FST's, the first responding CHP
5 officer's observation of Respondent's driving, this CHP officer formed the opinion that
6 Respondent was driving under the influence of alcohol in violation of Vehicle Code section
7 23152(a). Respondent was arrested. Respondent chose to perform a breath test. The results of
8 the breath tests show Respondent's blood alcohol content (BAC) to be 0.140% and 0.130% at
9 0400 and 0405 hours, respectively.

10 c. The District Attorney's Office charged Respondent with violating Vehicle Code
11 sections 23152(a) (driving while under the influence of alcohol) and 23152(b) (driving a vehicle
12 while having 0.08 percent and more, by weight, of alcohol in his or her blood), both
13 misdemeanors. Respondent was later convicted of violating Vehicle Code section 23152(b) (see
14 below).

15 FOURTH CAUSE FOR DISCIPLINARY ACTION
16 (Substantially Related Conviction)
(Bus. & Prof. Code §§ 490 and 2761(f))

17 15. Respondent has subjected her Registered Nurse License to disciplinary action under
18 Code sections 490 and 2761(f) and California Code of Regulations, title 16, section 1444 in that
19 she was convicted of a crime substantially related to the qualifications, functions, or duties of a
20 registered nurse. Specifically, on or about September 21, 2009, in the Superior Court of
21 California, County of Santa Clara, Case Number CC953901, entitled *The People of the State of*
22 *California v. Vernetta Lashan Jones*, Respondent was convicted by her plea of nolo contendere of
23 violating Vehicle Code section 23152(b) (driving with a blood alcohol content of .08% and
24 more), a misdemeanor. Respondent was placed on probation for three years upon terms and
25 conditions, which included, but were not limited to, serving six days in county jail, and enrolling
26 in a three month first offender DUI program within 30 days.

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1 FIFTH CAUSE FOR DISCIPLINARY ACTION
2 (Unprofessional Conduct)
3 (Bus. & Prof. Code §2761(a))

4 16. Respondent has subjected her Registered Nurse License to disciplinary action for
5 unprofessional conduct under Code section 2761(a). The circumstances are as follows:

6 a. On July 11, 2009, in San Jose, California, a San Jose Police Department (SJPD)
7 officer observed a vehicle making an illegal U-turn then accelerating at a high rate of speed. The
8 SJPD officer the vehicle did not have a current registration. After conducting a traffic stop, the
9 officer approached Respondent and noticed smell of an intoxicating beverage on her and that she
10 had bloodshot eyes. The officer asked Respondent if she had drunk any alcoholic beverages that
11 day. Respondent said that earlier that morning she had brought beer in Seaside, California. The
12 officer found an open container of a 24 fl/oz Budweiser beer can in her car with approximately 2
13 to 4 fl/oz left. The officer asked Respondent to perform two different FSTs, the Heel Toe and
14 Finger Count. Respondent failed both tests. A preliminary alcohol screening (PAS) devise was
15 administered and the results showed a BAC of .085%. Respondent was arrested and later took a
16 blood test to determine her BAC.

17 b. The District Attorney's Office charged Respondent with violating Vehicle Code
18 sections 23152(a) (driving while under the influence of alcohol) and 23152(b) (driving a vehicle
19 while having 0.08 percent and more, by weight, of alcohol in his or her blood), both
20 misdemeanors. Respondent was later convicted of violating Vehicle Code section 23152(b) (see
21 below).

22 SIXTH CAUSE FOR DISCIPLINARY ACTION
23 (Substantially Related Conviction)
24 (Bus. & Prof. Code §§ 490 and 2761(f))

25 17. Respondent has subjected her Registered Nurse License to disciplinary action under
26 Code sections 490 and 2761(f) and California Code of Regulations, title 16, section 1444 in that
27 she was convicted of a crime substantially related to the qualifications, functions, or duties of a
28 registered nurse. Specifically, on or about August 25, 2009, in the Superior Court of California,
County of Santa Clara, Case Number CC950680, entitled *The People of the State of California v.*
Vernetta Lashan Jones, Respondent was convicted by her plea of nolo contendere of violating

1 Vehicle Code section 23152(b) (driving with a blood alcohol content of .08% and more), a
2 misdemeanor. Respondent was placed on probation for three years upon terms and conditions,
3 which included, but were not limited to, serving six days in county jail and enrolling in a three
4 month first offender DUI program within 30 days.

5 SEVENTH CAUSE FOR DISCIPLINARY ACTION

6 (Convictions of Crimes Involving Alcohol)

(Bus. & Prof. Code § 2762(c))

7 18. The allegations of paragraphs 15 and 17 are hereby realleged and incorporated by
8 reference as if fully set forth.

9 19. Respondent has subjected her registered nurse license to disciplinary action under
10 Code section 2761(a) on the grounds of unprofessional conduct, as defined in Code section
11 2762(c). Specifically, on or about September 21, 2009, and on or about August 25, 2009,
12 Respondent was convicted of crimes involving the consumption of alcoholic beverages as set
13 forth in paragraphs 15 and 17, above.

14 EIGHTH CAUSE FOR DISCIPLINARY ACTION

15 (Use of Alcohol to a Dangerous Extent)

(Bus. & Prof. Code § 2762(b))

16 20. The allegations of paragraphs 12, 14, and 16 are hereby realleged and incorporated by
17 reference as if fully set forth.

18 21. Respondent has subjected her registered nurse license to disciplinary action under
19 Code section 2761(a) on the grounds of unprofessional conduct, as defined in Code section
20 2762(b). Specifically, on or about October 19, 2009, on or about August 6, 2009, and on or about
21 July 11, 2009, Respondent used, and was under the influence of, alcoholic beverages to an extent
22 dangerous or injurious to herself and the public, as set forth above in paragraphs 12, 14, and 16.

23 PRAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Registered Nursing issue a decision:

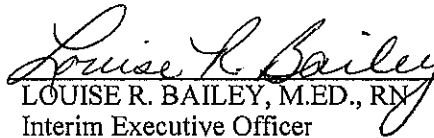
26 1. Revoking or suspending Registered Nurse License Number RN 712046, issued to
27 Respondent Vernetta La Shawn Jones;

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1 2. Ordering Vernetta La Shawn Jones to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

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6 DATED: 9-20-10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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